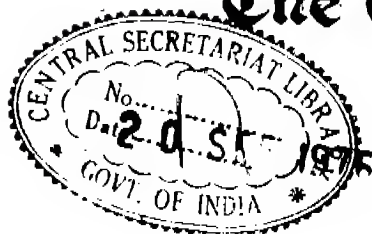




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असाधारण
EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि वह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (Legislative Department)

New Delhi, the 6th September, 1976/Bhadra 15, 1898 (Saka)

The following Act of Parliament received the assent of the President on the 4th September, 1976, and is hereby published for general information:—

THE FACTORIES (AMENDMENT) ACT, 1976

No. 94 of 1976

[4th September, 1976]

An Act further to amend the Factories Act, 1948

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Factories (Amendment) Act, 1976.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

63 of 1948.

2. In section 2 of the Factories Act, 1948 (hereinafter referred to as the principal Act),—

Amendment of section 2.

(1) in clause (k),—

(a) for sub-clause (ii), the following sub-clause shall be substituted, namely:—

“(ii) pumping oil, water, sewage or any other substance; or”;

(b) in sub-clause (iv) and sub-clause (v), the word “or” shall be inserted at the end;

(c) after sub-clause (v), the following sub-clause shall be inserted, namely:—

“(vi) preserving or storing any article in cold storage;”;

(2) in clause (l),—

(a) for the words “employed, directly or through any agency, whether for wages or not”, the words and brackets “employed, directly or by or through any agency (including a contractor) with or without the knowledge of the principal employer, whether for remuneration or not” shall be substituted;

(b) the following words shall be inserted at the end, namely:—

“but does not include any member of the armed forces of the Union”;

(3) in clause (m),—

(a) in the concluding paragraph, for the words “a railway running shed”, the words “a mobile unit belonging to the armed forces of the Union, a railway running shed or a hotel, restaurant or eating place” shall be substituted;

(b) the following *Explanation* shall be inserted at the end, namely:—

“*Explanation.*—For computing the number of workers for the purposes of this clause all the workers in different relays in a day shall be taken into account;”;

(4) in clause (n), the following proviso shall be inserted at the end, namely:—

“Provided that in the case of a ship which is being repaired, or on which maintenance work is being carried out, in a dry dock which is available for hire,—

(1) the owner of the dock shall be deemed to be the occupier for the purposes of any matter provided for by or under—

(a) section 6, section 7, section 11 or section 12;

(b) section 17, in so far as it relates to the providing and maintenance of sufficient and suitable lighting in or around the dock;

(c) section 18, section 19, section 42, section 46, section 47 or section 49, in relation to the workers employed on such repair or maintenance;

(2) the owner of the ship or his agent or master or other officer-in-charge of the ship or any person who contracts with such owner, agent or master or other officer-in-charge to carry out the repair or maintenance work shall be deemed to be the occupier for the purposes of any matter provided for by or under section 13, section 14, section 16 or section 17 (save as otherwise provided in this proviso) or Chapter IV (except section 27) or section 43, section 44 or

section 45, Chapter VI, Chapter VII, Chapter VIII or Chapter IX or section 108, section 109 or section 110, in relation to—

(a) the workers employed directly by him, or by or through any agency; and

(b) the machinery, plant or premises in use for the purpose of carrying out such repair or maintenance work by such owner, agent, master or other officer-in-charge or person;”.

3. In section 5 of the principal Act, the following *Explanation* shall be inserted at the end, namely:—

Amend-
ment of
section 5.

Explanation.—For the purposes of this section “public emergency” means a grave emergency whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance.’.

4. In section 6 of the principal Act,—

Amend-
ment of
section 6.

(a) clause (a) of sub-section (1) shall be re-lettered as clause (aa), and before the clause as so re-lettered, the following clause shall be inserted, namely:—

“(a) requiring, for the purposes of this Act, the submission of plans of any class or description of factories to the Chief Inspector or the State Government;”;

(b) in sub-section (2), for the word, brackets and letter “clause (a)”, the word, brackets and letters “clause (aa)” shall be substituted;

(c) in the *Explanation*, the words “if such replacement or addition does not reduce the minimum clear space required for safe working around the plant or machinery or adversely affect the environmental conditions from the evolution or emission of steam, heat or dust or fumes injurious to health” shall be inserted at the end.

5. In section 7 of the principal Act, in sub-section (1), for clause (e), the following clause shall be substituted, namely:—

Amend-
ment of
section 7.

“(e) the total rated horse power installed or to be installed in the factory, which shall not include the rated horse power of any separate stand-by plant;”.

6. In section 8 of the principal Act,—

Amend-
ment of
section 8.

(a) after sub-section (2), the following sub-sections shall be inserted, namely:—

“(2A) The State Government may, by notification in the Official Gazette, appoint as many Additional Chief Inspectors, Joint Chief Inspectors and Deputy Chief Inspectors and as many other officers as it thinks fit to assist the Chief Inspector and to exercise such of the powers of the Chief Inspector as may be specified in such notification.

(2B) Every Additional Chief Inspector, Joint Chief Inspector Deputy Chief Inspector and every other officer appointed under

sub-section (2A) shall, in addition to the powers of a Chief Inspector specified in the notification by which he is appointed, exercise the powers of an Inspector throughout the State.”;

(b) in sub-section (3), after the word, brackets and figure “sub-section (2)”, the word, brackets, figure and letter “, sub-section (2A)” shall be inserted;

(c) in sub-section (7), for the words “Every Chief Inspector and Inspector”, the words “Every Chief Inspector, Additional Chief Inspector, Joint Chief Inspector, Deputy Chief Inspector, Inspector and every other officer appointed under this section” shall be substituted.

Amend-
ment of
section 10.

7. In section 10 of the principal Act, in sub-section (3), the following proviso shall be inserted at the end, namely:—

“Provided that the State Government may, by order in writing and subject to such conditions as may be specified in the order, exempt any person or class of persons from the provisions of this sub-section in respect of any factory or class or description of factories.”.

Amend-
ment of
section 11.

8. In section 11 of the principal Act,—

(1) in sub-section (1), in clause (d),—

(a) in sub-clause (i), for the word “painted”, the words “painted otherwise than with washable water-paint” shall be substituted;

(b) after sub-clause (i), the following sub-clause shall be inserted, namely:—

“(ia) where they are painted with washable water paint, be repainted with at least one coat of such paint at least once in every period of three years and washed at least once in every period of six months;”;

(c) after clause (d), the following clause shall be inserted, namely:—

“(dd) all doors and window frames and other wooden or metallic framework and shutters shall be kept painted or varnished and the painting or varnishing shall be carried out at least once in every period of five years;”;

(2) in sub-section (2),—

(a) for the words “in a factory”, the words “in a factory or class or description of factories or any part of a factory or class or description of factories” shall be substituted;

(b) after the words “description of factories”, the words “or part” shall be inserted.

Amend-
ment of
section 12.

9. In section 12 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Effective arrangements shall be made in every factory for the treatment of wastes and effluents due to the manufacturing process carried on therein, so as to render them innocuous, and for their disposal.”.

10. In section 21 of the principal Act, in sub-section (1),—Amend-
ment of
section 21.

(a) in the concluding paragraph, for the words "shall be kept in position", the words "shall be constantly maintained and kept in position" shall be substituted;

(b) for the proviso, the following proviso shall be substituted, namely:—

"Provided that for the purpose of determining whether any part of machinery is in such position or is of such construction as to be safe as aforesaid, account shall not be taken of any occasion when—

(i) it is necessary to make an examination of any part of the machinery aforesaid while it is in motion or, as a result of such examination, to carry out lubrication or other adjusting operation while the machinery is in motion, being an examination or operation which it is necessary to be carried out while that part of the machinery is in motion, or

(ii) in the case of any part of a transmission machinery used in such process as may be prescribed (being a process of a continuous nature the carrying on of which shall be, or is likely to be, substantially interfered with by the stoppage of that part of the machinery), it is necessary to make an examination of such part of the machinery while it is in motion or, as a result of such examination, to carry out any mounting or shipping of belts or lubrication or other adjusting operation while the machinery is in motion,

and such examination or operation is made or carried out in accordance with the provisions of sub-section (1) of section 22."

11. In section 22 of the principal Act, in sub-section (1), for the opening paragraph and clause (a), the following shall be substituted, namely:—Amend-
ment of
section 22.

"Where in any factory it becomes necessary to examine any part of machinery referred to in section 21, while the machinery is in motion, or, as a result of such examination, to carry out—

(a) in a case referred to in clause (i) of the proviso to sub-section (1) of section 21, lubrication or other adjusting operation; or

(b) in a case referred to in clause (ii) of the proviso aforesaid, any mounting or shipping of belts or lubrication or other adjusting operation,

while the machinery is in motion, such examination or operation shall be made or carried out only by a specially trained adult male worker wearing tight fitting clothing (which shall be supplied by the occupier) whose name has been recorded in the register prescribed in this

behalf and who has been furnished with a certificate of his appointment, and while he is so engaged,—

(a) such worker shall not handle a belt at a moving pulley unless—

- (i) the belt is not more than fifteen centimetres in width;
- (ii) the pulley is normally for the purpose of drive and not merely a fly-wheel or balance wheel (in which case a belt is not permissible);
- (iii) the belt joint is either laced or flush with the belt;
- (iv) the belt, including the joint and the pulley rim, are in good repair;
- (v) there is reasonable clearance between the pulley and any fixed plant or structure;
- (vi) secure foothold and, where necessary, secure handhold, are provided for the operator; and
- (vii) any ladder in use for carrying out any examination or operation aforesaid is securely fixed or lashed or is firmly held by a second person.”.

Amend-
ment of
section 24.

12. In section 24 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) When a device, which can inadvertently shift from “off” to “on” position, is provided in a factory to cut off power, arrangements shall be provided for locking the device in safe position to prevent accidental starting of the transmission machinery or other machines to which the device is fitted.”.

Amend-
ment of
section 31.

13. In section 31 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The State Government may, by rules, exempt, subject to such conditions as may be specified therein, any part of any plant or machinery referred to in sub-section (1) from the provisions of this section.”.

Amend-
ment of
section 32.

14. In section 32 of the principal Act,—

(1) in clause (a), after the words “properly maintained”, the words “and shall be kept free from obstructions and substances likely to cause persons to slip” shall be inserted;

(2) after clause (b), the following clause shall be inserted, namely:—

“(c) when any person has to work at a place from where he is likely to fall a distance exceeding two metres, then, unless the place is one which provides secure foothold and, where necessary, secure handhold, provision shall be made, so far as is reasonably practicable, by fencing or otherwise, to ensure the safety of the person so working.”.

15. In section 36 of the principal Act, sub-section (2) shall be omitted.

Amend-
ment of
section 36.

16. After section 36 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
36A.

“36A. In any factory—

(a) no portable electric light or any other electric appliance of voltage exceeding twenty-four volts shall be permitted for use inside any chamber, tank, vat, pit, pipe, flue or other confined space; and

Precau-
tions
regarding
the use
of port-
able
electric
light.

(b) if any inflammable gas, fume or dust is likely to be present in such chamber, tank, vat, pit, pipe, flue or other confined space, no lamp or light other than that of flame-proof construction shall be permitted to be used therein.”

17. In section 38 of the principal Act,—

Amend-
ment of
section
38.

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) In every factory there shall be provided such means of escape in case of fire as may be prescribed.”;

(ii) after sub-section (7), the following sub-sections shall be inserted, namely:—

“(8) Notwithstanding anything contained in sub-section (1) or sub-section (7), if the Inspector, having regard to the nature of the work carried on in the factory, construction of the factory, special risk to life or safety or any other circumstance, is of the opinion that though such means of escape as may be prescribed have been provided in the factory, the same is not adequate to permit safe, easy or quick exit of the workers in case of fire, he may, by order in writing, require that such additional means of escape or other measures as he may consider reasonable and necessary be provided in the factory before such date as is specified in the order.

(9) If any question arises whether or not the means of escape provided in the factory is adequate to permit safe, easy or quick exit of the workers in case of fire, the same shall be referred to the Chief Inspector, who shall, after giving the persons concerned a reasonable opportunity to represent their views, decide the same.

(10) Any person aggrieved by the decision of the Chief Inspector under sub-section (9) may, before the expiry of thirty days from the date on which the decision is communicated to him, prefer an appeal to the State Government and the State Government shall after giving the appellant a reasonable opportunity to represent his views, make such order in relation to the appeal as it thinks fit.”.

18. In section 39 and section 40 of the principal Act, for the words “the manager”, wherever they occur, the words “the occupier or manager or both” shall be substituted.

Amend-
ment of
sections
39 and 40.

Insertion
of new
sections
40A and
40B.

Mainten-
ance of
buildings.

19. After section 40 of the principal Act, the following sections shall be inserted, namely:—

“40A. If it appears to the Inspector that any building or part of a building in a factory is in such a state of disrepair as is likely to lead to conditions detrimental to the health and welfare of the workers, he may serve on the occupier or manager or both of the factory an order in writing specifying the measures which in his opinion should be taken and requiring the same to be carried out before such date as is specified in the order.

Safety
Officers.

40B. (1) In every factory,—

(i) wherein one thousand or more workers are ordinarily employed, or

(ii) wherein, in the opinion of the State Government, any manufacturing process or operation is carried on, which process or operation involves any risk of bodily injury, poisoning or disease, or any other hazard to health, to the persons employed in the factory,

the occupier shall, if so required by the State Government by notification in the Official Gazette, employ such number of Safety Officers as may be specified in that notification.

(2) The duties, qualifications and conditions of service of Safety Officers shall be such as may be prescribed by the State Government.”.

Amend-
ment of
section 41.

20. In section 41 of the principal Act, for the word “devices”, the words “devices and measures” shall be substituted.

Amend-
ment of
section 43.

21. In section 43 of the principal Act,—

(a) in sub-section (3), for the words “who is trained in first-aid treatment”, the words “who holds a certificate in first-aid treatment recognised by the State Government” shall be substituted;

(b) in sub-section (4),—

(i) for the word “employed”, the words “ordinarily employed” shall be substituted;

(ii) the words “and those facilities shall always be made readily available during the working hours of the factory” shall be inserted at the end.

Amend-
ment of
section 46.

22. In section 46 of the principal Act, in sub-section (2), after clause (d), the following clause shall be inserted, namely:—

“(dd) the items of expenditure in the running of the canteen which are not to be taken into account in fixing the cost of foodstuffs and which shall be borne by the employer;”.

Amend-
ment of
section 48.

23. In section 48 of the principal Act, in sub-section (1), for the words “fifty women workers”, the words “thirty women workers” shall be substituted.

24. In section 56 of the principal Act, in the proviso, for the words "spread over to twelve hours", the words "spread over up to twelve hours" shall be substituted.

Amend-
ment of
section 56.

25. In section 59 of the principal Act, for sub-section (2) and sub-section (3), the following sub-sections shall be substituted, namely:—

Amend-
ment of
section 59.

'(2) For the purposes of sub-section (1), "ordinary rate of wages" means the basic wages plus such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of foodgrains and other articles, as the worker is for the time being entitled to, but does not include a bonus and wages for overtime work.

(3) Where any workers in a factory are paid on a piece-rate basis, the time rate shall be deemed to be equivalent to the daily average of their full-time earnings for the days on which they actually worked on the same or identical job during the month immediately preceding the calendar month during which the overtime work was done, and such time rates shall be deemed to be the ordinary rates of wages of those workers:

Provided that in the case of a worker who has not worked in the immediately preceding calendar month on the same or identical job, the time rate shall be deemed to be equivalent to the daily average of the earning of the worker for the days on which he actually worked in the week in which the overtime work was done.

Explanation.—For the purposes of this sub-section in computing the earnings for the days on which the worker actually worked such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of foodgrains and other articles, as the worker is for the time being entitled to, shall be included but any bonus or wages for overtime work payable in relation to the period with reference to which the earnings are being computed shall be excluded.'

26. In section 62 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

Amend-
ment of
section 62.

"(1A) No adult worker shall be required or allowed to work in any factory unless his name and other particulars have been entered in the register of adult workers."

27. In section 64 of the principal Act,—

Amend-
ment of
section 64.

(a) in sub-section (1),—

(i) after the words "confidential position in a factory", the words "or empowering the Chief Inspector to declare any person, other than a person defined by such rules, as a person holding position of supervision or management or employed in a confidential position in a factory if, in the opinion of the Chief Inspector, such person holds such position or is so employed" shall be inserted;

(ii) the words "or declared" shall be inserted at the end;

(iii) the following proviso shall be inserted at the end, namely:—

“Provided that any person so defined or declared shall, where the ordinary rate of wages of such person does not exceed rupees seven hundred and fifty per month, be entitled to extra wages in respect of overtime work under section 59.”;

(b) in sub-section (2),—

(i) in clause (e) and clause (h), for the word and figures “section 52”, the words and figures “section 51 and section 52” shall be substituted;

(ii) in clause (f), for the word and figures “section 52”, the words and figures “section 51, section 52 and section 54” shall be substituted;

(iii) in clause (j), after the words “railway wagons”, the words “or lorries or trucks” shall be inserted;

(iv) after clause (j), the following clause shall be inserted, namely:—

“(k) of workers engaged in any work, which is notified by the State Government in the Official Gazette as a work of national importance, from the provisions of section 51, section 52, section 54, section 55 and section 56.”;

(c) in sub-section (4), clause (iii) shall be re-numbered as clause (iv) and before clause (iv) as so re-numbered, the following clause shall be inserted, namely:—

“(iii) the total number of hours of work in a week, including overtime, shall not exceed sixty.”;

(d) in sub-section (5), for the words “three years”, the words “five years” shall be substituted.

Amend-
ment of
section 65.

28. In section 65 of the principal Act,—

(a) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Any exemption granted under sub-section (2) shall be subject to the following conditions, namely:—

(i) the total number of hours of work in any day shall not exceed twelve;

(ii) the spread over, inclusive of intervals for rest, shall not exceed thirteen hours in any one day;

(iii) the total number of hours of work in any week, including overtime, shall not exceed sixty;

(iv) no worker shall be allowed to work overtime, for more than seven days at a stretch and the total number of hours of overtime work in any quarter shall not exceed seventy-five.

Explanation.—In this sub-section “quarter” has the same meaning as in sub-section (4) of section 64.’;

(b) sub-section (4) shall be omitted.

29. In section 66 of the principal Act, in sub-section (1), in clause (b),—

Amend-
ment of
section 66.

(i) in the opening paragraph, for the words "employed in any factory", the words "required or allowed to work in any factory" shall be substituted;

(ii) in the proviso, for the words "any class or description of factories", the words "any factory or group or class or description of factories" shall be substituted.

30. In section 73 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

Amend-
ment of
section 73.

"(1A) No child worker shall be required or allowed to work in any factory unless his name and other particulars have been entered in the register of child workers."

31. In section 78 of the principal Act,—

Amend-
ment of
section 78.

(a) in sub-section (1),—

(i) in the opening paragraph for the word "agreement", the words and brackets "agreement (including settlement)" shall be substituted;

(ii) for the proviso, the following proviso shall be substituted, namely:—

"Provided that if such award, agreement (including settlement) or contract of service provides for a longer annual leave with wages than provided in this Chapter, the quantum of leave, which the worker shall be entitled to, shall be in accordance with such award, agreement or contract of service, but in relation to matters not provided for in such award, agreement or contract of service or matters which are provided for less favourably therein, the provisions of sections 79 to 82, so far as may be, shall apply.";

(b) in sub-section (2), for the words "in any workshop", the words "in any factory" shall be substituted.

32. In section 79 of the principal Act,—

Amend-
ment of
section 79.

(a) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) If a worker is discharged or dismissed from service or quits his employment or is superannuated or dies while in service, during the course of the calendar year, he or his heir or nominee, as the case may be, shall be entitled to wages in lieu of the quantum of leave to which he was entitled immediately before his discharge, dismissal, quitting of employment, superannuation or death calculated at the rates specified in sub-section (1), even if he had not worked for the entire period specified in sub-section (1) or sub-section (2) making him eligible to avail of such leave, and such payment shall be made—

(i) where the worker is discharged or dismissed or quits employment, before the expiry of the second working day from the date of such discharge, dismissal or quitting; and

(ii) where the worker is superannuated or dies while in service, before the expiry of two months from the date of such superannuation or death.";

(b) in sub-section (5), in the second proviso,—

(i) after the words, brackets and figures “in sub-sections (8) and (9)” the words, brackets and figures “or in contravention of sub-section (10)” shall be inserted;

(ii) for the words “unavailed leave”, the words “leave refused” shall be substituted.

Amend-
ment of
section 80.

33. In section 80 of the principal Act, in sub-section (1),—

(i) for the word and figures “section 79”, the words and figures “section 78 or section 79, as the case may be” shall be substituted;

(ii) for the words “he worked”, the words “he actually worked” shall be substituted.

Amend-
ment of
section 84.

34. In section 84 of the principal Act, the following *Explanation* shall be inserted at the end, namely:—

“*Explanation.*—For the purposes of this section, in deciding whether the benefits which are provided for by any leave rules are less favourable than those for which this Chapter makes provision, or not, the totality of the benefits shall be taken into account.”.

Amend-
ment of
section 86.

35. In section 86 of the principal Act, in the opening paragraph, for the word “training”, the words “training, research” shall be substituted.

Amend-
ment of
section 87.

36. In section 87 of the principal Act,—

(a) for the word “operation”, wherever it occurs, the words “manufacturing process or operation” shall be substituted;

(b) in clause (c), the following words shall be inserted at the end, namely:—

“and requiring the payment by the occupier of the factory of fees for such medical examination”;

(c) after clause (e), the following clauses shall be inserted, namely:—

“(f) requiring the provision of additional welfare amenities and sanitary facilities and the supply of protective equipment and clothing, and laying down the standards thereof, having regard to the dangerous nature of the manufacturing process or operation;

(g) providing for issue of orders in writing by the Inspector or the Chief Inspector to the manager or occupier or both of the factory directing them to carry out such measures, and within such time, as may be specified in such order with a view to removing conditions dangerous to the health of the workers, or to suspend any process, where such process constitutes, in the opinion of the Inspector or the Chief Inspector, as the case may be, imminent danger of poisoning or toxicity.”.

Amend-
ment of
section 88.

37. Section 88 of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

“(2) Where a notice given under sub-section (1) relates to an accident causing death, the authority to whom the notice is sent shall

make an inquiry into the occurrence within one month of the receipt of the notice or, if such authority is not the Inspector, cause the Inspector to make an inquiry within the said period.

(3) The State Government may make rules for regulating the procedure at inquiries under this section.”.

38. After section 88 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
88A.

“88A. Where in a factory any dangerous occurrence of such nature as may be prescribed occurs, whether causing any bodily injury or disability or not, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.”.

Notice of
certain
danger-
ous occur-
rences.

39. In Chapter IX of the principal Act, after section 91, the following section shall be inserted, namely:—

Insertion
of new
section
91A.

“91A. (1) The Chief Inspector, or the Director General of Factory Advice Service and Labour Institutes, or the Director General of Health Services, to the Government of India, or such other officer as may be authorised in this behalf by the State Government or the Chief Inspector or the Director General of Factory Advice Service and Labour Institutes or the Director General of Health Services may, at any time during the normal working hours of a factory, or at any other time as is found by him to be necessary, after giving notice in writing to the occupier or manager of the factory or any other person who for the time being purports to be in charge of the factory, undertake safety and occupational health surveys and such occupier or manager or other person shall afford all facilities for such survey, including facilities for the examination and testing of plant and machinery and collection of samples and other data relevant to the survey.

Safety
and occu-
pational
health
surveys.

(2) For the purpose of facilitating surveys under sub-section (1) every worker shall, if so required by the person conducting the survey, present himself to undergo such medical examination as may be considered necessary by such person and furnish all information in his possession and relevant to the survey.

(3) Any time spent by a worker for undergoing medical examination or furnishing information under sub-section (2) shall, for the purpose of calculating wages and extra wages for overtime work, be deemed to be time during which such worker worked in the factory.”.

40. In section 92 of the principal Act,—

(a) for the words “five hundred rupees”, the words “two thousand rupees” shall be substituted;

Amend-
ment of
section
92.

(b) the following proviso and *Explanation* shall be inserted at the end, namely:—

‘Provided that where contravention of any of the provisions of Chapter IV or any rule made thereunder or under section 87 has resulted in an accident causing death or serious bodily injury, the fine shall not be less than one thousand rupees in the case of an accident causing death, and five hundred rupees in the case of an accident causing serious bodily injury.

Explanation.—In this section and in section 94 “serious bodily injury” means an injury which involves, or in all probability will involve, the permanent loss of the use of, or permanent injury to, any limb or the permanent loss of, or injury to, sight or hearing, or the fracture of any bone, but shall not include, the fracture of bone or joint (not being fracture of more than one bone or joint) of any phalanges of the hand or foot.’

Amend-
ment of
section 94.

41. Section 94 of the principal Act shall be re-numbered as sub-section (1) thereof and,—

(a) in sub-section (1) as so re-numbered,—

(i) in the opening paragraph, for the words “which may extend to one thousand rupees”, the words “which shall not be less than two hundred rupees but which may extend to five thousand rupees” shall be substituted;

(ii) for the proviso, the following provisos shall be substituted, namely:—

“Provided that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a fine of less than two hundred rupees:

Provided further that where contravention of any of the provisions of Chapter IV or any rule made thereunder or under section 87 has resulted in an accident causing death or serious bodily injury, the fine shall not be less than two thousand rupees in the case of an accident causing death and one thousand rupees in the case of an accident causing serious bodily injury.”;

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) For the purposes of sub-section (1), no cognizance shall be taken of any conviction made more than two years before the commission of the offence for which the person is subsequently being convicted.”.

Amend-
ment of
section
100.

42. In section 100 of the principal Act, in sub-section (2),—

(a) in the opening paragraph, the words “, or in the case of a private company, any one of the shareholders thereof,” shall be omitted;

(b) in the proviso,—

(i) for the words “a director, or in the case of a private company, a shareholder, who is resident in either case within India”, the words “a director, who is resident within India” shall be substituted;

(ii) for the words “such director or shareholder, as the case may be,” the words “such director” shall be substituted;

(iii) for the words “ceases to be a director or shareholder”, the words “ceases to be a director” shall be substituted;

(c) the following proviso shall be inserted at the end, namely:—

“Provided further that in the case of a factory belonging to the Central Government or any State Government or any local authority the person or persons appointed to manage the affairs of the factory shall be deemed to be the occupier of that factory for the purposes of this Chapter.”.

43. In section 106 of the principal Act, the following *Explanation* shall be inserted at the end, namely:—

Amendment of section 106.

“Explanation.—For the purposes of this section,—

(a) in the case of a continuing offence, the period of limitation shall be computed with reference to every point of time during which the offence continues;

(b) where for the performance of any act time is granted or extended on an application made by the occupier or manager of a factory, the period of limitation shall be computed from the date on which the time so granted or extended expired.”.

44. After section 118 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 119.

“119. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Contract Labour (Regulation and Abolition) Act, 1970.”.

Act to have effect notwithstanding anything contained in Act 37 of 1970.

45. In the Schedule to the principal Act, the following serial numbers and entries shall be inserted at the end, namely:—

Amendment of the Schedule.

“18. Oil acne or dermatitis due to mineral oils and compounds containing mineral oil base.

19. Byssionosis.

20. Asbestosis.

21. Occupational or contact dermatitis caused by direct contact with chemicals and paints. These are of two types, that is, primary irritants and allergic sensitizers.

22. Noise induced hearing loss (exposure to high noise levels).”.

K. K. SUNDARAM,
Secy. to the Govt. of India.

